

CENTRAL INFORMATION COMMISSION

(Room No.313, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067)

Before Prof. M. Sridhar Acharyulu (Madabhushi Sridhar), CIC

CIC/EPFOG/A/2017/157024

Parveen Kohli v. PIO, EPFOG

Order Sheet: RTI filed on 09.02.2017, CPIO replied on 21.02.2017, FAO on 10.08.2017, Second appeal filed on 17.08.2017, Hearing on 01.01.2018;

Proceedings on 18.09.2017: Appellant present. Public authority – Mr. Manoj Shankar. Directions issued, show cause notice.

Proceedings on 01.01.2018: Appellant present at CIC, Public Authority represented by CPIO. Mr. Mukesh Kumar, RPFC-I and Shri H.M. Rawat, Regional Office, Vapi;

Date of Decision - 25.01.2018: Penalty imposed.

ORDER

FACTS:

1. Appellant sought the certified photocopies of all the circulars, letters, notifications, directions issued to Zonal offices/ ROs/ SROs regarding (a) Contribution to Pension Fund on salary exceeding Rs 15000 per month i.e. onfull/ higher salary (b) Re-computing/revising the pension of retirees & its disbursal on full salary last drawn by EPFO irrespective of any limit i.e. beyond Rs 6500/Rs 15000 in view of various Court Orders/judgments, photocopies of Judgments of Kerala High Court, Punjab Haryana High court & supreme court during the years 2013 to 2017 till date wherein EPFO/RPFC was a party (Either Petitioner or Respondent) regarding the various court cases on the aforementioned issue, photocopies of communications issued to ZOs & ROs for implementing the decisions of various courts regarding the court cases on the photocopy of document GSR 774 (E) dated 8.10.2001 vide which clause 11.3 of the EPS 1995 had been amended, directions/circulars issued to ZOs & ROs relating to Gazette notification no GSR 657 (E) dated 01.07.2016. PIO replied that the information does not pertain to their office, and that the application was wrongly forwarded to their office. FAA upheld the response given by the CPIO.

2. The Commission's order dated 18.09.2017:

2. Appellant submitted that he wanted the certified/attested copies of the documents regarding the cases where the Employees (now retired) covered under

EPF& MP Act 1952 and EPS 1995, while in service were drawing salary above Rs. 6500 and they had exercised an option under Section 26(6) of the Act and after receiving written concurrence of employer, permission had also been granted by the EPFO for doing so 2% of the total salary was being deducted towards employees contribution and the employer was remitting their contribution to the Provident Fund. However, while remitting 8.33% of the contribution to the pension Fund, the EPFO limited it to 8.33% of a maximum of Rs. 6500. While disposing of various appeals filed by EPFO, Kerala High court in several judgments has decided that with respect to retired employees, who have drawn their retirement benefits by way of Provident Fund, proportionate amounts along with interest accrued in the account as also that accrued after the withdrawal of Provident Fund amounts, have to be refunded to the Provident Fund organization. The retired employees are therefore required to submit joint applications, along with their employer wherever, the same has not been done. Thus, the pension of retirees is to be recomputed/ recalculated by EPFO in compliance of the judgments which have attained finality up to Apex Court.

3. Mr. Parveen submitted that since there was no response from the Public Authority within 30 days, he personally visited the EPFO office, to pursue the matter. Mr. Mukesh Kumar, PIO not only denied several requests made by the appellant for an appointment, he humiliated him in the office premises. He stated that all his visits to the EPFO office did not yield any result as the documents furnished to him on 31.07.2017, were incorrectly numbered and provided without attestation and signatures. Subsequently he filed first appeal but no hearing was conducted by the First Appellate Authority and Mr. R.N. Verma, FAA merely confirmed the PIO's reply without considering the merits and contents of the matter.

4. The Commission observes that Mr. Amit Nain, Assistant Provident Fund Commissioner and Nodal Officer, has wrongly transferred the RTI application to Valsad Office which is not concerned with the information sought by the appellant. The Commission is of the view that the Public Authority should have been cautious while transferring the RTI application and the failure of the same has caused loss of time and resources to both the parties.

5. The Commission directs the Public Authority to facilitate inspection of the files and file notings; provide certified copies of the selected documents to the appellant, within 15 days from date of receipt of this order.

6. The Commission directs Mr. Mukesh Kumar, CPIO and Mr. Amit Nain, APFC to show-cause why maximum penalty should not be imposed against each of them for not furnishing the information within prescribed timelines and wrongly forwarding the RTI application to Valsad Division, before 12.10.2017.

7. The Commission directs Mr. Mukesh Kumar to explain why the Public Authority should not be directed to pay compensation to the appellant for causing unreasonable delay and harassment to the appellant, before 12.10.2017.

Analysis and Decision:

Proceedings on 01.01.2018

3. The PIO submitted that the explanation to the show-cause notice dated 18.09.2017 was given on 12.10.2017, which states:

- *"Information in the RTI application dated 09.06.2017 was forwarded vide letter no. Pension-III/7(50)RTI/Praveen Kohli/1522 dated 17.07.2017.*

- *The appellant submitted Rs. 448 vide receipt dated 25.07.2017 towards cost of the documents.*
- *The copies of the documents relating to point 1, 2, 3, 4, 6 & 8 were forwarded vide letter No. Pen3I/7(50)/RTI/Praveen Kohli/HR/1713 dated 31.07.2017.*

In view of the above, it is submitted as under:

1. The undersigned is not aware of any request made by the appellant for an appointment. It is submitted that despite holding charge of 3 Divisions that is Pension, EDLI and International Workers Unit, the undersigned attends to all the phone calls and all visitors in person, whenever the undersigned is in office. The allegation of humiliation is shocking and completely baseless. In fact it is a complete surprise.

Moreover, the appellant visited this office on 25.07.2017 and not 25.05.2017 when he was requested to deposit the cost of the documents sought by him.

2. The under signed is not aware regarding forwarding of the RTI application to Valsad Division. The undersigned had never forwarded the said application to Valsad Division. In fact there is no office of EPFO in Valsad.

3. There was delay of few days in furnishing the documents sought as the concerned file was dealt at various level. However, the delay in providing the documents is deeply regretted and the same may kindly be condoned.

4. The appellant has submitted 12 applications during the last 8 months and the requested information has been furnished as per the provisions.

5. The attested copies of the documents furnished to the appellant vide letter no. Pen-III/7(50)/RTI/Praveen Kohli/HR/1713 dated 31.07.2017 has already been furnished to him vide this office letter No. Pension/7(41)/RTI/Praveen Kohli/HR/3238-39 dated 22.09.2017.

6. The documents provided to the appellant bears the same Page numbers as in the original documents and the same can be verified by the appellant at the time of inspection of the documents.

7. During the previous quarter, 148 RTI applications/appeals were received in Pension Division and information has been forwarded in each of them as per the provisions.

It is submitted that all efforts are made to provide the information sought in the RTI applications to the satisfaction of the applicant. Accordingly, it is humbly requested that no penalty may be imposed as the information sought has been provided to the appellant”.

4. The officer also stated that on 11.10.2017, another explanation was submitted to the Commission, which states as under:

"Information in the RTI application dated 12.02.2017 was sought from RPF-II (Conference, MIS) Head Office and not from CPIO (pension)

5. The appellant represented that the cheque given by the respondent authority for a sum of Rs. 448/- as refund amount, the name of the appellant was wrongly misspelt and he alleged that this trick of the trade was deliberate on part of the public authority. The appellant complained that the entire order of CIC to facilitation of inspection was not complied. Shri Mukesh Kumar, CPIO submitted that he wrote a letter to the appellant asking for a convenient date for which the appellant stated that the letter was given after 15 days time-limit. The Commission observes this as non-compliance of the Order dated 18.09.2017 and provides one more opportunity to the respondent authority and directs Shri Mukesh Kumar, CPIO to provide detailed explanation as to why maximum penalty should not be imposed against him for non-compliance of the CIC Order. The case is posted to 08.01.2018.

Proceedings on 08.01.2018:

6. Shri Mukesh Kumar, CPIO/RPFC-I(Pension) submitted as under:

"At the outset it is submitted that online RTI applications concerning EPFO are firstly received by Public Information Division in Head Office, New Delhi. The Public Information Division then forwards them to the concerned CPIOs. The CPIOs can view only those applications which are received in their respective account after using the Username and Password allocated to them. No other applications other than those received in their respective account can be viewed. At present there are 33 CPIOs in Head Office of EPFO, New Delhi. The case wise reply is submitted as under:

I) CIC/EPFOG/A/2017/157027:

The show cause notice contained in Commission's decision dated 18.09.2017 in the matter of CIC EPFOG/A/2017/157027 was replied vide office letter No. Pension-3/7(41)17/RTI/Parveen Kohli/HR/3633 dated 12.10.2017.

A copy of the reply was handed over to the Appellant Shri Parveen Kohli by hand on 01.01.2018 as per directions given during hearing on 01.01.2018. Copy of the reply was not furnished earlier to the Appellant as there was no such direction in the interim order.

Inspection of files and file noting was facilitated and the same was carried out by the Appellant on 03.01.2018. Rectified cheque bearing the correct name of the Appellant (Parveen Kohli) was issued to the Appellant by hand on 03.01.2018.

II) CIC/EPFOG/A/2017/157023:

Reply to the show cause notice contained in Commission's decision dated 18.09.2017 in the matter of CIC/EPFOG/A/2017/157023 was replied vide office letter No. Pension-3/7(41)17/RTI/Parveen Kohli/HR/14636 dated 11.10.2017.

A copy of the reply was handed over to the Appellant Shri Parveen Kohli by hand on 01.01.2018 as per directions given during hearing on 01.01.2018. Copy of the reply was not furnished earlier to the Appellant as there was no such direction in the interim order.

Inspection of files and file noting was facilitated and the same was carried out by the Appellant on 03.01.2018.

Rectified cheque bearing the correct name of the Appellant (Parveen Kohli) was issued to the Appellant by hand on 03.01.2018.

III) CIC/EPFOG/A/2017/157024:

- The RTI application dated 09.02.2017 was forwarded to CPIO, SRO, EPFO, Vapi, Gujarat.
- The CPIO, RO, Vapi disposed off the application on 21.02.2017 instead of transferring it to CPIO (Pension), Head Office, New Delhi as can be seen from the action history of the said RTI application.
- The RTI application was infact received by Shri Manoj Shanker, Regional P.F. Commissioner-II and CAPIO(Pension) in person in CIC office during the proceedings related to the second appeal of RTI dated 12.02.2017 and 09.06.2017 of the Appellant.
- The said application was accordingly replied vide this office letter No.Pension-III/7(50)/RTI/Parveen Kohli/HR/3027 dated 21.09.2017.
- In the said reply it has been mentioned that the RTI application dated 09.02.2017 was received by RPFC-II(Pension) & CAPIO in person before CIC during the hearing on 14.09.2017.
- **The application which was received on 14.09.2017 was replied vide letter dated 21.09.2017 i.e. within 7 days and hence it is submitted that there is no delay on part of the undersigned in furnishing the information.**
- Even the interim order in the aforesaid matter was also received for the first time along with the notice of hearing of show cause dated 13.12.2017 and hence reply to the said interim order could not be issued earlier.
- In the interim order also the Public Authority is mentioned as Shri Prashant Sharma and not the undersigned.
- Infact the interim order is addressed to the CPIO, SRO, EPFO, Vapi and not to CPIO (Pension), Head Office, EPFO, Bhikaji Cama Place, New Delhi.
- In Para 3 of the interim order it has been stated by the Appellant that the document furnished to him on 31.07.2017 is incorrectly numbered whereas reply to the RTI application was itself furnished on 21.09.2017.

It is submitted that all efforts are made to provide the information sought in the RTI applications to the satisfaction of the applicant. Accordingly, it is humbly requested that no penalty may be imposed as the information sought has been provided to the appellant.

7. The detailed particulars of second appeal reveal the saga of harassment that the senior citizen-appellant, surviving with meagre pension of Rs. 2,372/- was receiving from various officers of the EPFO including two CPIOs. Till today, he did not receive complete and certified information. There are officers designated as CPIOs and FAAs. It is a big confusion for the applicants as to who

they have to address for information. One CPIO will forward it to the other and concerned CPIO says, RTI was not directly filed with them and the CPIO to whom it is forwarded does not reply. Someone asks to pay costs but does not receive the cash, while others give non-attested copies of papers. General and common answer is the documents sought are available on website. It seems the entire RTI wing does not realise their duty to furnish certified copies to the applicants as per RTI Act and do not understand that website cannot give the certified copies. Perusal of documents and responses show that the senior citizen-applicant was thoroughly harassed persistently with useless forwarding of application, non-attestation and incomplete information always. The officers of respondent public authority shown no regard, courtesy or sympathy for their own erstwhile colleagues and they have no imagination that they would step into shoes of pensioners soon. The responses to show cause notices did neither answer the allegation of harassment nor justify incomplete information. The online application has clearly mentioned that he required attested copies of documents, which were not given but appellant was advised to go to website without even giving a web-link, and download the documents. The show cause notice responses were silent on why his fee was not accepted.

8. When one organization like EPFO has many CPIOs it is the duty of each CPIO to ensure that someone would furnish the information, if not the forwarding CPIO along with concerned CPIO shall be liable for penalty. Reply saying 'RTI application was forwarded to someone' is no information and it amounts deemed refusal of the CPIO, who forwarded it and to who it was forwarded if information was not given. The Commission finds it a fit case for imposing penalty considering complete negligence of CPIO towards the RTI Act and right of appellant. The Commission imposes maximum penalty of Rs. 25,000/- against Shri Mukesh Kumar, CPIO and RPFC-I (Pension). The Appellate Authority is directed to recover the amount of Rs.25,000/- from the salary payable to, Shri Mukesh Kumar, CPIO and RPFC-I (Pension) by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly installments. The first installment should reach the Commission by 18.03.2018 and the last installment should reach by 18.07.2018. The Demand Draft should be sent to Shri S.P. Beck, Joint Secretary & Addl. Registrar, Room No. 505, Central Information Commission, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067.

SD/-

(M. Sridhar Acharyulu)
Central Information Commissioner